

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF ALASTAIR HOUSTON, LEGAL MEMBER
OF THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER
PRESIDENT**

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Procedural Rules")

in connection with

24/4 Shandon Place, Edinburgh, EH11 1QL ("the Property")

Case Reference: FTS/HPC/EV/19/4035

MR DOUGLAS ROGERSON ("the Applicant")

MISS VIOLETA HAYNES MARTINEZ ("the Respondent")

1. The application was made under Rule 109 of the Procedural Rules being an application for a Private Residential Tenancy Eviction Order.
2. On 23 December 2019, a request was sent to the Applicant's representatives requesting that evidence showing that the eviction ground or grounds relied upon had been met and that notice in terms of Section 56(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") had been given.
3. The request advised that, should no response be received by 30 December 2019, the application may be rejected. As of 7 January 2020, no response had been received.

DECISION

4. The circumstances in which an application is to be rejected are governed by Rule 8 of the Chamber Procedural Rules. That Rule provides:-

"Rejection of application

8.—(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if –

- (a) they consider that the application is frivolous or vexatious;*
- (b) the dispute to which the application relates has been resolved;*
- (c) they have good reason to believe that it would not be appropriate to accept the application;*
- (d) they consider that the application is being made for a purpose other than a purpose specified in the application; or*

(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."

- 5. After consideration of the application, the further information referred to and correspondence from the Applicant, the Legal Member considers that the application should be rejected on the basis that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.**

REASONS FOR DECISION

6. Rule 109 of the Procedural Rules states that an application under that Rule must be accompanied by evidence showing that the eviction ground or grounds has been met and that the notice to the local authority required by Section 56(1) of the 2016 Act has been given. A request for this information was sent to the Applicant's representatives but no response was received. In light of the absence of this information and the terms of Rule 109, it would not be appropriate to accept the application.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision:-

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them. Information about the appeal procedure can be forwarded to you on request.

Alastair Houston

Mr Alastair Houston

Legal Member

7 January 2020